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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,655	10/24/2003	Pierre Jallais	033818-017	6342
7590 HAROLD R. BROWN III BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404			EXAMINER JOHNSTONE, ADRIENNE C	
			ART UNIT 1733	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/06/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/691,655	JALLAIS ET AL.	
	Examiner	Art Unit	
	Adrienne C. Johnstone	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 November 2006.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 August 2006 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application 6) <input type="checkbox"/> Other: _____.
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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I, claims 1-6 in the reply filed on August 7, 2006 and November 1, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 7 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 7, 2006 and November 1, 2006 (see paragraph 1 above).

### *Drawings*

- 3: The drawings were received on August 7, 2006. These drawings are acceptable.

### *Specification*

4. The amendment filed August 7, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support in the original disclosure for the third layer of textile elements being "at least the same width as the first and second layers, i.e., the third layer is not of less width than the first and second layers" of metallic elements in the embodiment of Figure 2: contrary to applicants' arguments, there is no inherent requirement that the rubber mixture M<sub>3</sub> terminate at the same width as that of the textile elements and therefore there is no inherent disclosure of the third layer of textile elements being "at least the same width as the

first and second layers, i.e., the third layer is not of less width than the first and second layers" of metallic elements.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection.

There is no support in the original disclosure for the claim 1 recitation "the first and second layers being of equal width, and the third layer being of no less width than the first and second layers": contrary to applicants' arguments, there is no inherent requirement in the embodiment of Figure 2 that the rubber mixture  $M_3$  terminate at the same width as that of the textile elements and therefore there is no inherent disclosure of "the first and second layers being of equal width, and the third layer being of no less width than the first and second layers".

***Claim Rejections - 35 USC § 102***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (4,172,487).

See the embodiment of Figure 14, col. 5 line 1 - col. 6 line 33, col. 10 line 42 - col. 12 line 17, and the col. 12 Table: upper and lower main belt layers of rubberized steel cords with exemplary inclination angle of 0 degrees (lower endpoint of range of up to 30 degrees) and exemplary elongation at break of 5% (elastic), intermediate belt layer of rubberized helically formed aromatic polyamide filaments provided as either single filaments or bundles of two or more filaments with exemplary inclination angle of 70 or 75 degrees, width of intermediate layer equal to the widths of the upper and lower main belt layers. As to claim 4, one of ordinary skill in the art would have understood the steel cords in the upper and lower main belt layers to be of the same construction absent explicit disclosure to the contrary, especially in view of the use of the same steel cords in the main belt layers of Example 1 as shown in the col. 12 Table, and in any case the steel cords in the two layers must be either the same or different and therefore one of ordinary skill in the art would have at once envisaged the species wherein the cords are the same (MPEP 2131.02).

***Claim Rejections - 35 USC § 103***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (4,172,487) in view of Takemura et al. (3,851,693) and Ishikawa et al. (4,947,916).

See paragraph 8 above: it is a well known alternative in such rubberized tire belt layers to either use the same rubber throughout or use different rubber for the different reinforcing materials, as evidenced by Takemura et al. (Test Tires A-D, different rubber in aromatic polyamide fiber cord layer than in steel cord layers) and Ishikawa et al. (entire document, same rubber in aromatic polyamide cord layer and steel cord layer to improve processability and reduce belt separation compared to using different rubber) for example, therefore it would have been obvious to one of

ordinary skill in the art to provide in the above rubberized reinforcement layers such well known alternative rubber arrangements. As to claim 8, if the same rubber is used for all of the belt layers it is structurally indistinguishable from one unitary rubber directly contacting both the aromatic polyamide filaments of the intermediate layer and the steel cords of the upper and lower layers.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-6, 8, and 9 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maiocchi (4,169,495) is an example of the prior art distinguishing between conventional steel cords having an elongation at break of about 3% and high elongation steel cords having an elongation at break of about 4%-8%. Robinson (Re. 26,731) and Jenkins (3,607,592) anticipate or render obvious at least claim 1 but are considered to be no more pertinent to the instant claims than the prior art already applied by the examiner.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (571) 272-1218. The examiner can normally be reached on Monday-Friday, 10:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adrienne C. Johnstone  
Primary Examiner  
Art Unit 1733

Adrienne Johnstone

February 3, 2007

